

United States District Court

EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

CYNTHIA ANNE VANN

v.

VETERANS ADMINISTRATION,
DALLAS VA HOSPITAL

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Civil Action No. 4:17-CV-681
(Judge Mazzant/Judge Nowak)

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE

Came on for consideration the report of the United States Magistrate Judge in this action, this matter having been heretofore referred to the Magistrate Judge pursuant to 28 U.S.C. § 636. On October 3, 2018, the report of the Magistrate Judge (Dkt. #17) was entered containing proposed findings of fact and recommendations that Defendant Veterans Administration Dallas VA Hospital's Motion to Dismiss for Lack of Subject Matter Jurisdiction under Rule 12(b)(1) (Dkt. #14) be granted in part and denied in part.

Having received the report of the United States Magistrate Judge, and no objections thereto having been timely filed, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and adopts the Magistrate Judge's report as the findings and conclusions of the Court.

It is, therefore, **ORDERED** that Defendant Veterans Administration Dallas VA Hospital's Motion to Dismiss for Lack of Subject Matter Jurisdiction under Rule 12(b)(1) (Dkt. #14) should be **GRANTED IN PART** and **DENIED IN PART**. Specifically, Plaintiff's claim challenging the VA's denial of benefits is **DISMISSED without prejudice**.

It is further **ORDERED** that within fourteen (14) days of the date of this Memorandum, Plaintiff shall file an Amended Complaint regarding her remaining claim under the Federal Tort Claims Act.

IT IS SO ORDERED.

SIGNED this 5th day of November, 2018.



AMOS L. MAZZANT
UNITED STATES DISTRICT JUDGE